IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.M.JOSEPH

TUESDAY, THE 31ST JULY 2007 / 9TH SRAVANA 1929

WP(C).No. 22215 of 2007(T)

PETITIONER:

VEENA VIJAYAN, AGED 26 YEARS,
D/O.J.REGHUNANDHANAN, VIPANJIKA HOUSE,
TRIPRAYAR, VALAPPAD P.O., THRISSUR.

BY ADV. SRI.RAJIT
SRI.RANJIT BABU

RESPONDENTS:

1. STATE OF KERALA, REP. BY THE CHIEF SECRETARY, SECRETARIAT, THIRUVANANTHAPURAM.

2. THE REVENUE DIVISIONAL OFFICER, OFFICE OF THE R.D.O., ERNAKULAM.

3. TRIPUNITHURA MUNICIPALITY, REP. BY ITS SECRETARY, MUNICIPAL OFFICE, TRIPUNITHURA, ERNAKULAM.

4. THE SECRETARY, TRIPUNITHURA MUNICIPALITY, MUNICIPAL OFFICE, TRIPUNITHURA, ERNAKULAM.

5. DIRECTOR OF PANCHAYAHTS, SECRETARIAT, THIRUVANANTHAPURAM.

R1, R2 & R5 BY GOVERNMENT PLEADER (SHRI BASANTH BALAJI)
R3 & R4 BY ADV. SHRI V. M. KURIAN, SC.

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 31/07/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

K. M. JOSEPH, J.

W.P.C. NO. 22215 OF 2007 T

Dated this the 31st July, 2007

JUDGMENT

Petitioner has approached this Court seeking to quash Exts.P5 and P7. She also prays for a direction to respondents 2 and 3 to immediately issue her Birth Certificate after tracing out the relevant extract from the Birth Register maintained by the respondent Municipality. She seeks a further direction to respondent4s 2 & 3 to conduct an enquiry with regard to the materials furnished by her with regard to her date of birth and issue the date of birth certificate thereafter. Case of the petitioner, in brief, is as follows:

Petitioner was born on 26.3.1981 at the Varma Clinic, Tripunithura and her date of birth was registered in the Tripunithura Municipality. Petitioner obtained a job in a Multinational Company. The petitioner's father applied for issue of date of Birth Certificate of the petitioner, which was accompanied by copies of the Admit Card issued by Varma

Clinic, the SSLC Extract, etc. The respondent Municipality has issued a reply stating that the Books are damaged and so the Certificate cannot be issued. Though a lawyer notice was issued, the respondent Municipality replied stating that the Certificate cannot be issued. It is stated that there is no attempt made by the Municipality to trace the relevant information with regard to the date of birth of the petitioner or any enquiry made to issue the Certificate in the light of the information furnished by the petitioner.

2. I heard the learned counsel appearing for the petitioner, respondent Municipality and also the learned Government Pleader. Learned counsel for the Municipality submits that the records were mutilated and, therefore, they are unable to issue the Birth Certificate. In Ext.P7, they say that permission of the RDO may be obtained. It is also stated by Shri V.M. Kurian, learned counsel appearing for the Municipality that a direction may be obtained from the Director of Panchayats, who is the Registrar. Learned Government Pleader on instructions submits

that the Director of Panchayats sought clarification from the Registrar General of India and communication dated 15.2.2007 is made available. The same is extracted hereunder:

> *" Please refer your Office letter No.B1-32899/04 dated 03.01.2007 by which a clarification has been sought for issuance of Non-availability Certificate in case the register for a particular year is lost, destroyed or mutilated. In this connection, your attention is invited to this Office letter No.1/3/95 - VS (CRS) dated 09.03.1998 (copy enclosed) by which procedure for reconstruction of registration records was mentioned. If records are torn, lost or mutilated it can be reconstructed on the basis of any proof provided by the individual or the Office of the fact that the event had actually been registered, ways may be found to see that these event are re-registered or registers reconstructed and the general public will not be denied by the genuine demand of certificates. However, if they fail to submit any proof in this regard a Non-availability certificate may be issued to the applicant as per the guidelines issued by this*

Office letter No.1/10/2004 - VS (CRS) dated 31.01.2007. A copy of the same is also enclosed for ready reference."

3. In the light of this, I feel that the matter has to be reconsidered by the respondent Municipality. I quash Exts.P5 and P7, so that the matter can be considered in accordance with law and in terms of the stand taken on behalf of the Registrar General of India, on the basis of the clarification sought by the Director of Panchayats. A decision as aforesaid shall be taken by the fourth respondent after affording an opportunity of hearing to the petitioner also, within a period of two weeks from the date of production of a copy of this Judgment.

The Writ Petition is disposed of as above.

K. M. JOSEPH, JUDGE

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